

MINUTES
Texas Board of Health Meeting
April 15, 2004

The April 15, 2004 meeting of the Texas Board of Health (Board) was called to order at 10:02 a.m., at the Texas Department of Health (department), 1100 West 49th Street, Room M-739, Austin, Texas. Mr. George H. McCleskey, Chair, presided. A quorum was present with members, Raymond Hannigan, Margo Scholin, M.S., J.D., Mary E. Ceverha and Mario Anzaldua, M.D. in attendance.

Registered Guests

Frank VanZant, Steamatic Inc., Fort Worth
Bob Allen, International Association of Mold Remediation Specialists, Fort Worth
Lillian Gilligan, Glaxo-Smith-Kline
Dinah Welsh, Texas Hospital Association
Ken Ortolon, Texas Medical Association
Bruce Malone, M.D., Texas Medical Association
Karen Batory, Texas Medical Association
Marion Armstrong, Armstrong Forensic Laboratory
Ronald Stewart, M.D., Southwest Texas Regional Advisory Council with Trauma
Scott Mitchell, North Central Texas Regional Advisory Council
Ed Racht, Governor's EMS and Trauma Advisory Committee
Charmaine Costner, Lamar University/Lamar Institute of Technology
Debra Daugette, Texas Department of Criminal Justice
Randy Hall, Texas Department of Criminal Justice
Gayle Harris, Texas Medical Association
E. Roone, Aldine Independent School District
Jay Dyer, Texas Association of Builders
John Thomas, Aldine Independent School District
Mr. & Mrs. Harley Schmidt, Calallen Independent School District
Gary Lookabaugh, Region IV Education Services Center
Stevan Pierce, Environmental and Occupational Health Strategies
Jim Foxx, Cypress-Fairbanks Independent School District
Ron Clary, North East Independent School District
E. J. Small, Consumer Specialty Products Association
Jerry Morford, Texas Hill Country Section, American Industrial Hygiene Association
Les Hoyt, Amarillo Independent School District
Randy Smith, Amarillo Independent School District
Larry Niemann, Texas Apartment Association, Texas Mini Storage Association, and
Texas Community Associations Institute
Peggy Caruso, Katy Independent School District
Jerry Blizzard, Crosby Independent School District
Willie Huggins, Klein Independent School District
Gerald Lamping, North East Independent School District
Marc Malinger, State Farm Insurance
Paul Falcon, Randolph Field Independent School District
Darrell Wilson, Houston Independent School District
Donald May, Judson Independent School District
Shannon Carroll
Luis Acuna, Sun City Analytical Incorporated
Bill T. Teague, Texas Independent Blood Center
Louis Alonzo, Fort Worth Independent School District

Registered Guests Continued

Stoney Crump, Dallas Independent School District
Michael J. Lee, Fort Worth Independent School District
Regi Brackin, Stephenville Independent School District
Geni Stevens, HBC/Terracon
Jaye R. Stanley, HBC/Terracon
Jim Lincoln, Texas Medical Association
Tom Carter, Alvin Independent School District
Paul Siddall, Lewisville Independent School District
Rick Sturkie, D.B.A. R.N. Sturkie
Jorie Klein, Parkland Hospital
Curtis Krause, Medimunne
Les Reddin, Round Rock Independent School District/TASBO
Donna Parker, TOA
Jeseka Wallall, TOA
Helen Kent Davis, Texas Medical Association
Cindy Gunn, Memorial Hermann Healthcare System, Houston

Mr. McCleskey welcomed guests. Also in attendance at the meeting were Nick Curry, M.D., M.P.H., Executive Deputy Commissioner, and other key staff members of the department.

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN, THE MINUTES OF THE MARCH 11, 2004 TEXAS BOARD OF HEALTH MEETING WERE APPROVED.

Dr. Anzaldúa presented a resolution to Sharilyn K. Stanley, M.D., Associate Commissioner for Disease Control and Prevention, Mr. Casey S. Blass, Chief, Bureau of Immunization and Pharmacy Support and Ms. Lupe Mandujano Garcia, Immunizations Division, in recognition of Infant Immunization Week in Texas for the week of April 25 - May 1, 2004 and Vaccination Week in the Americas for the week of April 24-30, 2004. (*Attachment I*)

Mr. McCleskey presented a resolution to Wanda Malone Thompson, Ph.D., for her service to the Texas Department of Health and to wish her well as she leaves the department to become the Executive Deputy Commissioner for Support Services at the Health and Human Services Commission. (*Attachment II*)

Dr. Curry presented the Commissioner's Report for Dr. Eduardo Sanchez who was attending the first meeting of the Joint Interim Committee on Nutrition Health in Public Schools at the Capitol. Dr. Curry spoke regarding the development of long-term economic and health care costs of obesity in Texas and presented an update on key issues of the transformation of health and human services. Dr. Curry introduced Mr. Randy Fritz, the new Chief Operating Officer, Ms. Kathleen Barnett, the new Budget Director and Mr. Wilson Day, the new Accounting Director for the Department of State Health Services. (*Attachments III*)

Rick Danko, Dr. P.H., Director, Office of Strategic Health Planning, presented updates on strategic health planning and the first Business and Philanthropy Round Table Meeting on April 14, 2004. Dr. Danko reported that the department's Comprehensive Strategic and Operational Plan, as required by Chapter 11 of the Texas Health and Safety Code, is due no later than September 1, 2004. A status report on the accomplishments and recommendations will be submitted by June and finalized in July for approval. (*Attachment IV*)

Dr. Anzaldua recognized Mr. Casey S. Blass, Chief, Bureau of Immunization and Pharmacy Support, to present an update on the activities of the Bureau of Immunization and Pharmacy Support related to exclusions from immunization compliance for reasons of conscience, including religious belief, in accordance with 25 Texas Administrative Code (TAC) Section 97.62 (2) as adopted by the Texas Board of Health on March 11, 2004. Mr. Blass presented the department's plans to collect data on the geographic distribution of incoming requests for affidavit forms and to assess the impact of these rules on the public health. (*Attachment V*)

Mr. Mark Scott, Director, Internal Audit, presented a report regarding progress on the Internal Audit Plan and the beginning of an audit of various programs, other than bioterrorism, related to homeland security. The State Auditor finalized their audit of the department's Contract Management and will be issuing the report in the next few days. (*Attachment VI*)

Mr. Hannigan recognized Ms. Kathleen Barnett, Budget Director, to present the Strategic Financial Issues Report for the quarter ending February 29, 2004, which will be the second report for FY 2004. (*Attachment VII*)

Mr. Hannigan recognized Mr. Casey S. Blass, Chief, Bureau of Immunization and Pharmacy Support, concerning a request to accept a gift of \$15,000 from the Texas Medical Association (TMA) for a joint project to increase the use of reminder/recall programs in physician's practices to alert parents of the next immunization their child needs. The grant will be an on-going collaboration between the department and TMA and the funds will be used to develop materials to train volunteers who will help implement reminder/recall in physician's offices. (*Attachment VIII*)

C. Bruce Malone, M.D. spoke on behalf of the TMA Board of Trustees, by saying immunizations are their association's top priority and they look forward to a continued partnership with the department to help improve Texas' immunization rate to keep children healthy.

Mr. Hannigan recognized Sharilyn K. Stanley, M.D., Associate Commissioner for Disease Control and Prevention, concerning a request to approve a donation from The Seaton Foundation for \$5,000 to pay for consumer travel to Traumatic Brain Injury Advisory Committee meetings. (*Attachment IX*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY DR. ANZALDUA, THE BOARD ACCEPTED A GIFT FOR \$15,000 FROM THE TEXAS MEDICAL ASSOCIATION (TMA) AND A GIFT OF \$5,000 FROM THE SEATON FOUNDATION.

Ms. Ceverha recognized Ms. Susan Tennyson, Chief, Bureau of Food and Drug Safety, regarding approval of the proposed rule concerning the establishment of Be a Blood Donor Advisory Committee. (*Attachment X*)

Mr. Bill T. Teague, President/CEO, Gulf Coast Regional Blood Center, spoke representing the Texas Independent Blood Centers. Mr. Teague presented the history of the new "Be A Blood Donor" specialty license plate, outlined the benefits of donating blood and requested endorsement of this new committee. (*Attachment XI*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED A MOTION TO TABLE THE PROPOSED RULE CONCERNING THE CREATION OF THE BE A BLOOD DONOR ADVISORY COMMITTEE UNTIL THE LEGISLATURE HAS AN OPPORTUNITY TO REVIEW THE CONFLICT BETWEEN SB908 AND HB 2292 CONCERNING THE ESTABLISHMENT OF ADVISORY COMMITTEES.

Ms. Scholin recognized Ms. Yvonne Feinleib, Program Director, Professional Licensing and Certification Division, regarding the approval of the proposed rules concerning voluntary registration of opticians. (*Attachment XII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE VOLUNTARY REGISTRATION OF OPTICIANS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin recognized Ms. Yvonne Feinleib, Program Director, Professional Licensing and Certification Division, regarding the approval of the proposed rules concerning the registration of code enforcement officers. (*Attachment XIII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGISTRATION OF CODE ENFORCEMENT OFFICERS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin recognized Ms. Yvonne Feinleib, Program Director, Professional Licensing and Certification Division, regarding the approval of the proposed rules concerning the regulation of persons filling contact lens prescriptions. (*Attachment XIV*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGULATION OF PERSONS FILLING CONTACT LENS PRESCRIPTIONS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin recognized Ms. Yvonne Feinleib, Program Director, Professional Licensing and Certification Division, regarding the approval of the proposed rules concerning the registration of sanitarians. (*Attachment XV*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGISTRATION OF SANITARIANS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin recognized Mr. Derek Jakovich, Division Director, Licensing and Enforcement Division, Bureau of Food and Drug Safety, regarding the approval of proposed rules concerning the licensure of food manufacturers, food wholesalers, and warehouse operators. (*Attachment XVI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE LICENSURE OF FOOD MANUFACTURERS, FOOD WHOLESALERS, AND WAREHOUSE OPERATORS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin recognized Ms. Kathy Perkins, Chief, Bureau of Emergency Management, regarding the approval of proposed rules concerning the certification and licensure of emergency medical services (EMS) certificates, providers, EMS/Trauma systems funding, Do Not Resuscitate Orders and requirements for Automated External Defibrillator training. (*Attachment XVII*)

Mr. McCleskey called for discussion and recognized persons to speak.

Ms. Diane Welch, Texas Hospital Association (THA), stated that THA supports the proposed rule and has been very involved with the development of the trauma system. Ms. Welch recognized the passion and commitment of department staff Ms. Kathy Perkins, Mr. Steve Janda, and Dr. Ed Racht, Chair of the Governor's EMS and Trauma Advisory Council. Written comment was submitted for the record. (*Attachment XVIII*)

Dr. Ronald Stewart, General Surgeon, Chair of Trauma Systems Committee, Governor's EMS and Trauma Advisory Council, spoke regarding the development of the rules, in support of the adoption of the rules and requested the rules state a hospital physician should have an incentive plan as a good compromise.

Mr. Scott Mitchel, Assistant Chief of Flower Mound Fire Department and Chair-Elect of the North Central Texas Trauma Regional Advisory Council, spoke in support of the rules.

Ms. Jorie Klein, Trauma Nurse, Parkland Hospital, spoke in support of the rules because the money is very important for hospitals' survival and it is crucial to trauma centers and the citizens of the State of Texas.

Bruce Malone, M.D., Orthopedic Surgeon and Texas Medical Association Board of Trustees, spoke in support of the rules and proposed two amendments regarding subsection (3)(G) Page 22 to use the word "shall" and a new provision be added to the rules to require that hospitals report to the State the aggregate amount of money they distribute to trauma physicians by specialty for uncompensated trauma care. Written comment was submitted for the record. (*Attachment XIX*)

Ms. Cindy Gunn, Memorial Hermann Health Care System in Houston, spoke in support of the proposed rules as written for the fairest distribution of funding for the good of the Texas Trauma System as a whole. Written comment was submitted for the record. (*Attachment XX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED PROPOSED RULES CONCERNING THE CERTIFICATION AND LICENSURE OF EMERGENCY MEDICAL SERVICES (EMS) CERTIFICATES, PROVIDERS, EMS/TRAUMA SYSTEMS FUNDING, DO NOT RESUSCITATE ORDERS AND REQUIREMENTS FOR AUTOMATED EXTERNAL DEFIBRILLATOR TRAINING FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin recognized Mr. Richard Bays, Associate Commissioner, Consumer Health Protection, concerning the approval of final rules for the regulation of mold-related activities that affect indoor air quality. (*Attachment XXI*)

Mr. McCleskey called for discussion and questions from the Board.

Mr. McCleskey called for discussion and recognized persons to speak.

Mr. Luis Acuña, SCAI, spoke as an owner of a laboratory in El Paso and requested that the rules not be passed today because it will put him out of business. Written comment was submitted for the record. (*Attachment XXII*)

Mr. Michael J. Lee, Lead Environmental Coordinator for Fort Worth Independent School District, requested it be stated on the license "For Official Government Use Only" since the school district is paying for training, wages and license, and this would keep individuals from leaving the school district to go to work anywhere else because the taxpayers of Texas are paying for it. Due to funding problems of school districts across the state, he requested one person be able to perform both the mold assessment and remediation. He feels it is unfair to taxpayers that the notification fees required of schools is \$100 and homeowners only have to pay \$25.

Mr. Tom Carter, Alvin Independent School District, stated the rules are written aimed at contractors and companies, but they are a tax-supported entity and it is everyone's responsibility to spend the taxpayers' money to the best benefit. He feels schools should have the ability to do both mold remediation and assessment in-house because they are not making money out of this, but are making it safer for our children to go to school.

Mr. Les Hoyt, Assistant Superintendent for Amarillo Independent School District, spoke regarding the definition of "contiguous" as found in Section 295.302(10) and suggested the definition is ambiguous and open to vast interpretation. Mr. Hoyt stated that schools are in a financial crisis in Texas and asked this be taken into consideration.

Mr. Randy Smith, Safety Manager for Amarillo Independent School District, expressed concerns that the rules are not science-based and recommended mandatory containment be removed from the rules. Written comment was submitted for the record. (*Attachment XXIII*)

Mr. Larry Niemann, Attorney representing the Texas Apartment Association, Texas Mini Storage Association, and Texas Community Associations Institute, addressed his concerns regarding venting to the exterior and clarification of the exclusion of attic and crawl space. Written comment was submitted for the record. (*Attachment XXIV*)

Ms. Peggy Caruso, Katy Independent School District, expressed concerns regarding different interpretations of the rules and asked for clarification regarding in-house mold assessment and remediation.

Mr. Jerry Blizzard, Crosby Independent School District, spoke in agreement with the other speakers representing independent school districts.

Mr. Donald May, Judson Independent School District, requested clarification on the issue of licenses because this affects one thousand and forty seven school districts across Texas.

Mr. Jim Foxx, Cypress-Fairbanks Independent School District, spoke regarding the need for a clean, safe environment where learning can occur for children and the critical financial issues that schools face.

Mr. Jerry Morford, President of Texas Hill Country Section of the American Industrial Hygiene Association, addressed concerns with two wording errors he feels exist in the rules. Written comment was submitted for the record. (*Attachment XXV*)

Mr. Jay Dyer, Director of Regulatory Affairs for the Texas Association of Builders, spoke in favor of the rules, thanked members of the Board for being very active and engaged in the process and thanked Mr. Rick Bays and his staff for their work in finalizing the rules.

Mr. Greg Lookabaugh, Director of Region IV Education Services Center, spoke in agreement with speakers before him, requested that the changes be considered and thanked everyone for their work on the rules.

Mr. Steven Pierce, Consultant in Arlington, Texas, requested reconsideration of the requirement that mold assessors and remediators wear respiratory protection due to unnecessary costs.

Ms. Marion Armstrong, Armstrong Forensic Laboratory, concurred with previous comments thanked the department, Texas Board of Health, and everyone involved. Ms. Armstrong asked that the rules not be voted on as final without making the requested changes.

Mr. Bob Allen, International Association of Mold Remediation Specialists, spoke regarding the need for an insurance requirement for the contractors in order to protect the consumer, needed worker training, and containment.

Ms. Charmaine Costner, Office of Risk Management, Lamar University, submitted written comment for the record.

A MOTION WAS MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN TO APPROVE AN ORDER ADOPTING RULES CONCERNING THE REGULATION OF MOLD-RELATED ACTIVITIES THAT AFFECT INDOOR AIR QUALITY TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. McCleskey announced a recess at 1:12 p.m., on Thursday, April 15, 2004.

Mr. McCleskey reconvened the meeting at 1:50 p.m., on Thursday, April 15, 2004. Other Board members in attendance were Ms. Mary E. Ceverha, Mr. Raymond Hannigan, Mario Anzaldúa, M.D. and Ms. Margo Scholin.

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD AGREED TO VOTE AT THE END OF THE MEETING TO GIVE STAFF TIME TO MAKE REQUESTED CHANGES TO FINAL RULES CONCERNING THE REGULATION OF MOLD-RELATED ACTIVITIES THAT AFFECT INDOOR AIR QUALITY.

Ms. Scholin recognized Mr. Terry Bavousett, Bureau of Emergency Management, concerning the approval of final adoption of rules for the regulation of emergency medical services (EMS) certificants, providers, training institutions, educators and EMS trauma systems. (*Attachment XXVI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE REGULATION OF EMERGENCY MEDICAL SERVICES (EMS) CERTIFICANTS, PROVIDERS, TRAINING INSTITUTIONS, EDUCATORS AND EMS TRAUMA SYSTEMS TO BE EFFECTIVE JUNE 1, 2004 AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Scholin recognized Ms. Julie Long, Health Facility Licensing and Compliance Division, concerning approval of final adoption of rules for the regulation of end stage renal disease facilities. (*Attachment XXVII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE REGULATION OF END STAGE RENAL DISEASE FACILITIES TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Scholin recognized Ms. Julie Long, Health Facility Licensing and Compliance Division, concerning approval of final rules for private psychiatric hospitals and crisis stabilization units. (*Attachment XXVIII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE REGULATION OF PRIVATE PSYCHIATRIC HOSPITALS AND CRISIS STABILIZATION UNITS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Scholin recognized Lee C. Jan, D.V.M., Director, Meat Safety Assurance Division, concerning approval of final adoption of a rule for meat and poultry inspection. (*Attachment XXIX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING MEAT AND POULTRY INSPECTION TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Scholin recognized Ms. Ruth N. Hendy, Branch Chief, Accreditation and Training, Retail Foods Division, Bureau of Food and Drug Safety, concerning approval of final adoption of rules for permits and fees relating to the accreditation of certified food management programs, and certification of food managers. (*Attachment XXX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING PERMITS AND FEES RELATING TO THE ACCREDITATION OF CERTIFIED FOOD MANAGEMENT PROGRAMS, AND CERTIFICATION OF FOOD MANAGERS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Scholin recognized Ms. Susan Tennyson, Chief, Bureau of Food and Drug Safety, concerning approval of final adoption of rules relating to the permits, fees and enforcement relating to the Milk and Dairy Program and the Frozen Dessert Manufacturer Program. (*Attachment XXXI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE PERMITS, FEES AND ENFORCEMENT RELATING TO THE MILK AND DAIRY PROGRAM AND THE FROZEN DESSERT MANUFACTURER PROGRAM TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Dr. Anzaldua recognized Phillip W. Walker, Chief, Bureau of Kidney Health Care, concerning approval of final rules for the Hemophilia Assistance Program. (*Attachment XXXII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE HEMOPHILIA ASSISTANCE PROGRAM TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Dr. Anzaldua recognized Eric Fonken, D.V.M., MPAff, Zoonosis Control Veterinarian, concerning approval of final rules for the standards for allowable methods of euthanasia for animals in the custody of an animal shelter. (*Attachment XXXIII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING STANDARDS FOR ALLOWABLE METHODS OF EUTHANASIA FOR ANIMALS IN THE CUSTODY OF AN ANIMAL SHELTER TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Dr. Anzaldua recognized Mr. Casey S. Blass, Chief, Bureau of Immunization and Pharmacy Support, concerning approval of final rules for the immunization registry, a statewide repository for immunization information on Texas children. (*Attachment XXXIV*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE DEPARTMENT IMMUNIZATION REGISTRY TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. McCleskey announced the next meeting of the Texas Board of Health is scheduled for Thursday, July 1, 2004, in Austin, at 9:00 a.m., and is expected to be the last Texas Board of Health meeting.

Mr. McCleskey recognized Mr. Rick Bays to report on discussion regarding changes to agenda item 9H regarding the final adoption of rules concerning the regulation of mold-related activities that affect indoor air quality. Mr. McCleskey requested that Mr. Bert Hickman, Toxicologist, Toxic Substance Control, read through requested amendments as a result of previous discussion. (*Attachment XXXV*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN AMENDMENT TO CHANGE THE PASSING SCORE FOR THE STATE AND COURSE EXAMINATIONS RELATED TO THE REGULATION OF MOLD-RELATED ACTIVITIES THAT AFFECT INDOOR AIR QUALITY FROM 70% TO 80% IN THE FOLLOWING RULE SECTIONS: 295.305(f), 295.310(a)(1), 295.310(a)(2), 295.310(e), 295.311(c)(2)(D), 295.311(e)(1)(D), 295.311(e)(2)(D), 295.312(e)(1)(D), 295.315(e)(1)(D), 295.318(b)(10), 295.320(g), AND IN ANY OTHER SECTIONS NECESSARY FOR CONSISTENCY.

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN AMENDMENT TO CHANGE SECTION 295.320(b)(2) BY INSERTING AFTER "POTENTIAL HEALTH EFFECTS" THE WORDS, "IN ACCORDANCE WITH A TRAINING PROTOCOL DEVELOPED IN CONSULTATION WITH STATE PROFESSIONAL ASSOCIATIONS, INCLUDING AT LEAST ONE REPRESENTING PHYSICIANS;"

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN AMENDMENT TO CHANGE SECTION 295.312(c)(1)(D) AND 295.315(c)(1)(D) FROM "AND AT LEAST" TO "WITH AT LEAST."

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN AMENDMENT TO ADD THE WORDS, "IN THE BUILDING" AT THE END OF THE FIRST SENTENCE IN SECTION 295.302(8) TO READ, "A COMPONENT OR ENCLOSURE DESIGNED OR INTENDED TO CONTROL THE RELEASE OF MOLD OR MOLD-CONTAINING DUST OR MATERIALS INTO SURROUNDING AREAS IN THE BUILDING."

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED AN AMENDMENT TO ADD THE WORDS, "BUT EXCLUDING ATTICS AND CRAWL SPACES THAT ARE VENTED TO THE OUTSIDE OF THE BUILDING." AT THE END OF THE SENTENCE IN SECTION 295.302(16) TO READ, "INDOOR AIR – AIR WITHIN THE ENVELOPE OF A BUILDING, INCLUDING AIR IN SPACES NORMALLY OCCUPIED BY PERSONS IN THE BUILDING BUT EXCLUDING AIR IN ATTICS AND CRAWL SPACES THAT ARE VENTED TO THE OUTSIDE OF THE BUILDING."

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN AMENDMENT TO ADD THE WORDS, "OF THE BUILDING" IN SECTION 295.321(g) TO READ, "THE CONTAINMENT SPECIFIED IN THE REMEDIATION PROTOCOL MUST PREVENT THE SPREAD OF MOLD TO AREAS OF THE BUILDING OUTSIDE THE CONTAINMENT UNDER NORMAL CONDITIONS OF USE."

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED AN AMENDMENT TO CHANGE THE WORD “AND” TO “OR” IN SECTION 295.317(c)(1)(C) AND ADD 295.317(c)(1)(D)(i)-(iii) TO READ, “(D) ALL INDIVIDUALS WHO WILL ANALYZE THE MOLD SAMPLES: (i) HAVE AT LEAST A BACHELOR’S DEGREE IN MICROBIOLOGY OR BIOLOGY; (ii) HAVE SUCCESSFULLY COMPLETED TRAINING IN MOLD ANALYSIS OFFERED BY THE MCCRONE RESEARCH INSITITUE OR BY A PROGRAM DEEMED EQUIVALENT BY THE DEPARTMENT, INCLUDING RECEIVING A TRAINING CERTIFICATE; AND (iii) HAVE AT LEAST THREE YEARS OF EXPERIENCE AS A MOLD MICROSCOPIST; AND” .

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN AMENDMENT TO CHANGE SECTION 295.322(c) AND ALL OTHER AREAS WHERE IT APPEARS, TO SUBSTITUTE THE WORD “RECOMMENDED” FOR “REQUIRED” IN REFERENCE TO PERSONAL PROTECTIVE EQUIPMENT (PPE).

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN AMENDMENT TO MAKE ANY GENERAL EDITORIAL CHANGES NEEDED TO BE CONSISTENT WITH ALL PREVIOUS AMENDMENTS.

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED THE FINAL RULES, WITH AMENDMENTS, CONCERNING THE REGULATION OF MOLD-RELATED ACTIVITIES THAT AFFECT INDOOR AIR QUALITY TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

The meeting was adjourned on Thursday, April 15, 2004 at 2:22 p.m.

APPROVED: July 1, 2004

George H. McCleskey, Chair
Texas Board of Health

Date